

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KENNETH E. THOMAS, JR., #58421 §

VS. § CIVIL ACTION NO. 6:20cv599

GREGG COUNTY JAIL, ET AL. §

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Kenneth Earl Thomas, Jr., a former inmate confined within the Gregg County Jail proceeding *pro se* and *in forma pauperis*, filed this civil lawsuit pursuant to 42 U.S.C. § 1983 alleging purported violations of his constitutional rights. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Judge Mitchell issued a Report, (Docket No. 11), recommending that Plaintiff's lawsuit be dismissed, without prejudice, for Plaintiff's failure to prosecute his own case. Judge Mitchell further recommended that the statute of limitations in this case be suspended for a period of sixty days from the date of the Final Judgment. *See Campbell v. Wilkinson*, 988 F.3d 798, 801 n.1 (5th Cir. 2021). A copy of this Report was sent to Plaintiff's at his last-known address, with an acknowledgment card. The docket reflects that the Report was returned as "undeliverable," (Docket No. 12). Plaintiff has neither filed objections nor a notice of a change of address.

The Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire

record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten days to fourteen days).


Here, Plaintiff has not filed objections. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 11) as the findings of this Court. Therefore, it is

ORDERED that the above-styled lawsuit is **DISMISSED**, without prejudice, for Plaintiff's failure to prosecute his case. The statute of limitations is **SUSPENDED** for a period of sixty (60) days from the date of Final Judgment. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

Signed this
Sep 28, 2022


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE